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IME-01-001



To: Commissioner of Patents and Trademarks

Washington, D.C. 20231

Attn: Art Unit 1637 - Jeffrey Siew

From: George O. Saile, Reg. No. 19,572

20 McIntosh Drive

Poughkeepsie, N. Y., 12603

Subject: | Serial No.: 09/898,124 07/05/01 |

Quanbo Zou et al.

MINIATURIZED MULTI-CHAMBER THERMAL
CYCLER FOR INDEPENDENT THERMAL
MULTIPLEXING

| _ Art Group: 1637 Jeffrey Siew _ |

RESPONSE TO RESTRICTION REQUIREMENT


This is in response to the Restriction or Election Requirement in the Office Action dated 09/24/02. In that Office Action, restriction was required to one of two stated

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on October 11, 2002.

Stephen B. Ackerman, Reg.# 37761

Signature/Date

 10/11/02

Inventions under 35 U.S.C. 121. The Inventions stated are Group I - Claims 1-26 to an apparatus for heating, classified in Class 435, subclass 287.2 and Group II - Claims 19-26 to a process, classified in Class 435, subclass 6. It is believed, and will be assumed for purposes of election, that the Examiner intended to include only Claims 1-18 in Group I, since these are the product Claims.

Applicant provisionally elects to be examined the Invention described by the Examiner as Group II - Claims 19-26 drawn to a process classified in Class 435, subclass 6. This election is made with traverse of the requirement under 37 C.F.R.1.143 for the reasons given in the following paragraphs.

The Examiner is respectfully requested to reconsider the Requirement for Restriction given in the Office Action. The Examiner gives the reason for the distinctness of the two inventions as (1) that the process as claimed can be used to make other and materially different products or (2) that the product as claimed can be made by another and materially different process (MPEP 806.05(f)). However, upon reading the product Claims against the process Claims one can readily see that the product Claims are directed to "an apparatus for simultaneously performing multiple, independently controlled, chemical reactions, and the process Claims are directed to "a process for simultaneously performing multiple,

independently controlled, chemical reactions", it is necessary to obtain claims in both the product and method claim language. The method Claims necessarily use the product and vice versa. The field of search must necessarily cover both the method class/subclass 435/6 and products class 435/287.2 in addition to other related Classes and subclasses to provide a complete and adequate search. The fields of search for the Group I and Group II inventions are clearly and necessarily co-extensive. The Examiner's suggestion that "In the instant case the apparatus may be using a variety of different thermocycling and detection assays that involved different temperatures in each the reaction wells", is very speculative and really has nothing to do with the Claims as presented in this Patent Application. Further, it is respectfully suggested that these reasons are insufficient to place the additional cost of a second Patent Application upon the Applicants. Therefore, it is respectfully requested that the Examiner withdraw this restriction requirement for these reasons.

Withdrawal of the Restriction Requirement and the Allowance of the present Patent Application is requested.

Sincerely,

A handwritten signature in black ink, appearing to read 'SBA', with a long horizontal flourish extending to the right.

Stephen B. Ackerman, Reg. #37761